

E.D.N.Y. – Bklyn  
03-cv-5418  
96-cr-339  
Townes, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 20<sup>th</sup> day of September, two thousand sixteen.

Present:

Pierre N. Leval,  
Raymond J. Lohier, Jr.,  
*Circuit Judges,*  
Edward R. Korman,\*  
*District Judge.*

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Umeme Raysor,

*Petitioner,*

v.

16-2939

United States of America,

*Respondent.*

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Petitioner moves for leave to file a successive 28 U.S.C. § 2255 motion. Upon due consideration, it is hereby ORDERED that the motion is GRANTED, because Petitioner has made a prima facie showing that he has satisfied the successive motion requirements with respect to his proposed claim based on *Miller v. Alabama*, 132 S. Ct. 2455 (2012). It is further ORDERED that the proceeding is TRANSFERRED to the district court. See 28 U.S.C. § 1631.

Since this Court has determined only that Petitioner has made a prima facie showing that he has satisfied the successive motion requirements, see 28 U.S.C. § 2244(b)(3)(C), the district court is directed to address, as a preliminary inquiry under § 2244(b)(4), whether the Supreme Court's decision in *Miller* entitles Petitioner to relief. See *Quezada*

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\* Judge Edward R. Korman, of the United States District Court for the Eastern District of New York, sitting by designation.

*v. Smith*, 624 F.3d 514, 521-22 (2d Cir. 2010) (discussing prima facie standard); *Bell v. United States*, 296 F.3d 127, 128 (2d Cir. 2002) (“the prima facie standard [applies to] our consideration of successive habeas applications under § 2255 . . .”).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

The image shows a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal is divided into two horizontal halves: the top half is red and the bottom half is blue. The words "UNITED STATES" are written in white along the top arc of the seal, and "SECOND CIRCUIT" is written in white along the bottom arc. Two small white stars are positioned on the left and right sides of the seal, separating the top and bottom text.